

**CALENDAR ITEM
C17**

A 1

04/20/17
PRC 5277.1
PRC 9082.1
M. Schroeder

S 1

GENERAL LEASE – RECREATIONAL USE

APPLICANT:

Colleen Kimball, as Trustee of the Survivor's Trust of the Kimball Family Trust
dated January 2, 2003

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 6918 Pomin Avenue, near
Tahoma, Placer County.

AUTHORIZED USE:

Continued use and maintenance of an existing pier and two mooring
buoys.

LEASE TERM:

10 years, beginning April 1, 2017.

CONSIDERATION:

\$1,338 per year, with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

1. Liability insurance in an amount no less than \$1,000,000 per occurrence.
2. Lessee shall not store any personal items or construct any improvements in the Public Trust easement that may impair the public uses.
3. If Lessee does not have valid Tahoe Regional Planning Agency (TRPA) buoy permits, Lessee is required to obtain such authorization for the mooring buoys within two years after the adoption of a Final Environmental Impact Statement (FEIS) for the Lake Tahoe Shorezone Ordinance Amendments and approval of

CALENDAR ITEM NO. **C17** (CONT'D)

the amended ordinances. If Lessee is unable to obtain such authorization within the time limit, they may be required to remove the buoys.

4. Lessee expressly acknowledges and agrees that issuance of a lease does not substitute for, or provide preference in, obtaining authorizations from TRPA or any other regulatory agency for the improvements authorized by the Commission.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, 6301, 6501.1, and 6503.5; California Code of Regulations, title 2, section 2000, subdivision (b).

Public Trust and State's Beset Interests Analysis:

On October 30, 2007, the Commission authorized a 10-year Recreational Pier Lease, Lease No. PRC 5277.9, for an existing pier to Colleen Kimball, as Trustee of the Decedent's Trust of the Kimball Family Trust dated January 2, 2003 and Colleen Kimball, as Trustee of the Survivor's Trust of the Kimball Family Trust dated January 2, 2003 (Lessee) ([Calendar Item C03, October 30, 2007](#)). On September 20, 2013, the Commission authorized Lease No. PRC 9082.1, a General Lease – Recreational Use, for two existing mooring buoys to the Lessee ([Calendar Item C39, September 20, 2013](#)). On December 2, 2013, the Commission authorized a correction to Lease No. PRC 9082.1 revising the exhibits to accurately show the location of the mooring buoys ([Calendar Item C43, December 2, 2013](#)). Both leases expired on March 31, 2017. In 2015, full ownership of the upland parcel was transferred to Colleen Kimball, as Trustee of the Survivor's Trust of the Kimball Family Trust dated January 2, 2003 (Applicant). Because the pier and the mooring buoys are adjacent to the same upland parcel, the Applicant is now applying for one consolidated General Lease – Recreational Use under Lease No. PRC 5277.1 for the continued use and maintenance of the existing pier and two mooring buoys.

Applicant owns the upland adjoining the lease premises. The subject facilities are privately owned and maintained. The pier and two mooring buoys are used for the docking and mooring of boats. Recreational boating is a water-dependent use that is generally consistent with the common law Public Trust Doctrine. The California Legislature has identified private recreational boating facilities as an authorized use of Public Trust land (Pub. Resources Code, § 6503.5).

CALENDAR ITEM NO. **C17** (CONT'D)

The subject facilities have existed for many years at this location. The pier is built on pilings, meaning the public may navigate or walk next to and, at lower water levels, under the pier. The immediate area of the existing pier is gently sloped with boulders, cobblestones, and a mostly flat sandy part of the shore. The buoys are located directly lakeward of the upland property and occupy a relatively small area of the lake.

The proposed lease does not alienate the State's fee simple interest or permanently impair public rights. The lease is limited to a 10-year term, does not grant the lessee exclusive rights to the lease premises, and reserves an easement to the public for Public Trust-consistent uses. Upon termination of the lease, the lessee may be required to remove all improvements from State land.

The proposed lease requires the lessee to insure the lease premises and indemnify the State for any liability incurred as a result of the lessee's activities thereon. The lease also requires the payment of annual rent to compensate the people of the State for the occupation of the public land involved. For all the reasons above, Commission staff believes the issuance of this lease is consistent with the common law Public Trust Doctrine and is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. This action is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction and Strategy 1.3 to promote, expand, and enhance appropriate public use and access to and along the State's inland and coastal waterways.
2. Staff recommends that the Commission find that this activity is exempt from the requirements of the California Environmental Quality Act (CEQA) as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15300 and California Code of Regulations, title 2, section 2905.

3. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq., but such activity will not affect those significant lands. Based upon

CALENDAR ITEM NO. **C17** (CONT'D)

staff's consultation with the persons nominating such lands and through the CEQA review process, it is staff's opinion that the project, as proposed, is consistent with its use classification.

EXHIBITS:

- A. Land Description
- B. Site and Location Map

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15061 as a categorically exempt project, Class 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed lease will not substantially impair the public rights to navigation and fishing or substantially interfere with the Public Trust needs and values at this location, at this time, or for the foreseeable term of the lease, and is consistent with the common law Public Trust Doctrine, and is in the best interests of the State.

SIGNIFICANT LANDS INVENTORY FINDING:

Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code section 6370 et seq.

AUTHORIZATION:

Authorize issuance of a General Lease – Recreational Use to the Applicant beginning April 1, 2017, for a term of 10 years, for the continued use and maintenance of an existing pier and two mooring buoys, as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; annual rent in the amount of \$1,338, with an annual Consumer Price Index adjustment; and liability insurance in the amount of \$1,000,000 per occurrence.

EXHIBIT A

PRC 5277.1

LAND DESCRIPTION

Three parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 1 fractional Section 8, Township 14 North, Range 17 East, MDM., as shown on Official Government Township Plat approved July 29, 1880, County of Placer, State of California, and more particularly described as follows:

PARCEL 1 – PIER

All of the lands underlying an existing pier and catwalk adjacent to that parcel as described in Exhibit “A” of that Grant Deed, recorded September 9, 2015 as Document Number 2015-0079450 of Official Records of said County.

TOGETHER WITH any applicable impact area(s).

EXCEPTING THEREFROM any portion(s) lying landward of elevation 6223 feet LTD on the shoreline of said Lake Tahoe.

PARCELS 2 & 3 – BUOYS (2)

Two circular parcels of land, being 50 feet in diameter, underlying two (2) existing buoys lying adjacent to said parcel.

Accompanying plat is hereby made part of this description.

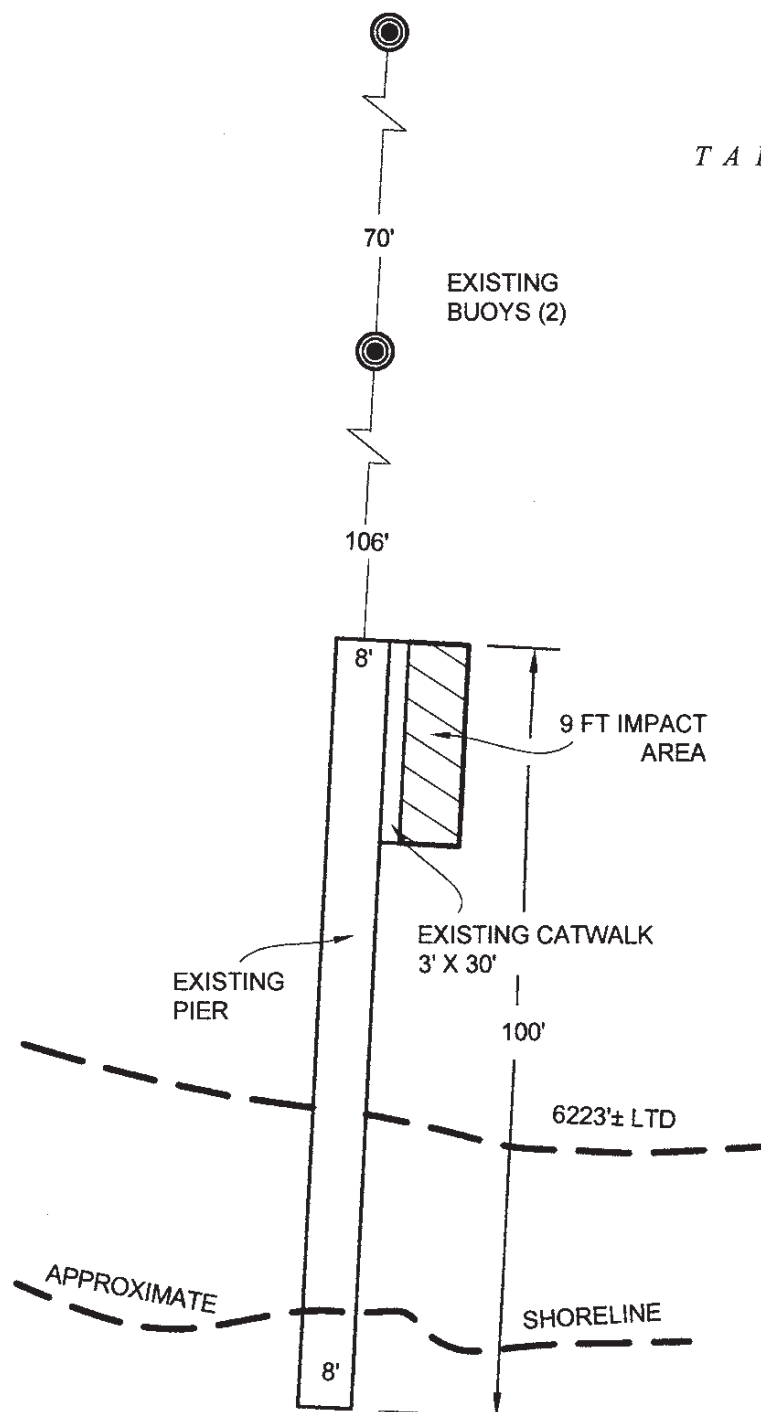
END OF DESCRIPTION

Prepared December 6, 2016 by the California State Lands Commission Boundary Unit.



L A K E

T A H O E



APN 098-200-032

EXHIBIT A

Page 2 of 2

MJJ 1/26/2017

LAND DESCRIPTION PLAT
PRC 5277.1, KIMBALL TRUST
PLACER COUNTY

CALIFORNIA STATE
LANDS COMMISSION



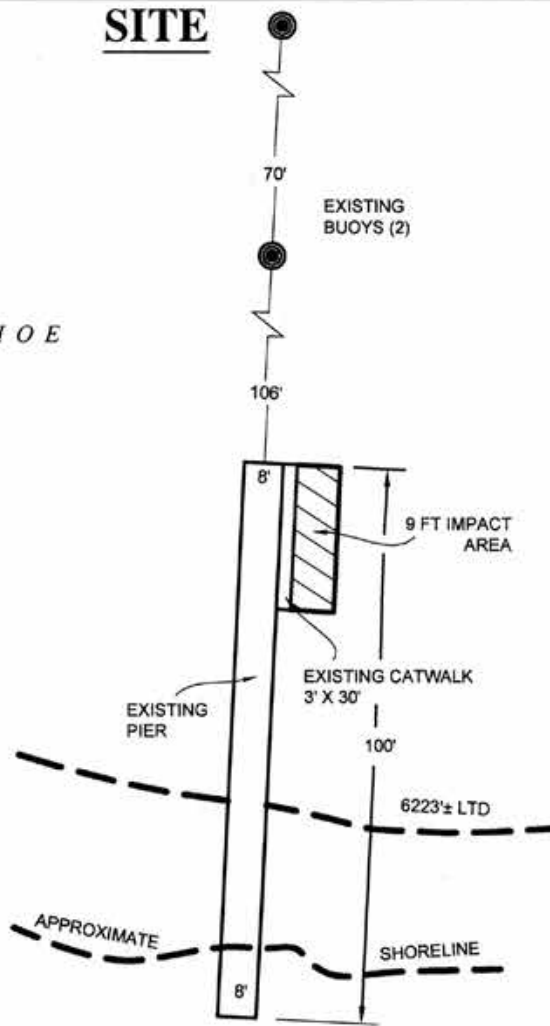
NO SCALE

SITE



L A K E

T A H O E



APN 098-200-032

6918 POMIN AVENUE, NEAR TAHOMA

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.

Exhibit B

PRC 5277.1
KIMBALL TRUST
APN 098-200-032
GENERAL LEASE -
RECREATIONAL USE
PLACER COUNTY



MJJ 1/26/2017